



Competitive Carriers Association
Rural • Regional • Nationwide

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October 31, 2012

Via ECFS

Mr. Julius Genachowski
Chairman, Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109; Universal Service Reform – Mobility Fund, WT Docket No. 10-208

Dear Chairman Genachowski:

Competitive Carriers Association (“CCA”)¹ writes to urge the Commission to seek comment on how wireless carriers could make use of unclaimed funding from Phase I of the Connect America Fund (“CAF”) in the upcoming Notice of Proposed Rulemaking regarding the disposition of these unclaimed funds.² While CCA continues to believe strongly that wireless carriers are best positioned to use the available funding to deliver cost-effective voice and data services to unserved areas, the Commission need not and should not resolve that ultimate policy question at this stage. Rather than prejudging the proceeding, it should issue an NPRM that enables all stakeholders to submit proposals regarding how wireline carriers, wireless carriers, or others would use the remaining Phase I CAF support to advance the Commission’s universal service goals. There is no legitimate justification for foreclosing debate about wireless carriers’ participation at this juncture, particularly given the stark contrast between price cap carriers’ decision to forego Phase I CAF support and wireless carriers’ successful participation in Phase I of the Mobility Fund.

CCA has been an active participant in the Commission’s universal service reform proceedings. CCA and its members have been steadfast proponents of establishing competitively neutral support mechanisms that harness the efficiency of low-cost technologies to deliver

¹ CCA was formerly known as RCA — The Competitive Carriers Association.

² Ex Parte Letter of RCA — The Competitive Carriers Association, WC Docket No. 10-90 *et al.* (Aug. 3, 2012).

telecommunications services to rural communities. In particular, CCA and its members have explained that stark preferences for wireline carriers in the allocation of high-cost support threaten to subvert universal service principles and cause substantial harm to consumers.³ Indeed, given consumers' manifest preference for mobile wireless services and their abandonment of rural wireline technology,⁴ it makes no sense to dedicate the lion's share of high-cost funding (nearly \$4 billion annually) to incumbent local exchange carriers ("ILECs") under the CAF program.

Even before price cap ILECs chose to forego \$185 million of the \$300 million allocated for broadband deployment as part of CAF Phase I,⁵ CCA argued that the Commission should eliminate the arbitrary support limits imposed on wireless carriers. CCA further proposed that the Commission revise its annual budgets to channel increased support to competitive wireless carriers. In particular, CCA argued that where a price cap carrier declines to exercise its statewide right of first refusal with respect to Phase I CAF support, the foregone funding should be transferred to the Mobility Fund to enable wireless carriers to meet consumers' needs.⁶ Moreover, CCA argued that price cap carriers should be barred from participating in subsequent competitive bidding for high-cost support, as it would contravene the public interest to give them multiple chances to obtain funding and enable price cap carriers to cherry-pick available support.⁷

³ See Comments of RCA—The Competitive Carriers Association, WC Docket No. 10-90 *et al.*, at 2-7 (filed Jan. 18, 2012); *see also* Reply Comments of Cellular South, Inc., d/b/a C Spire Wireless, Docomo Pacific, Inc., East Kentucky Network, LLC, d/b/a Appalachian Wireless, N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, PR Wireless, Inc., and Union Telephone Company, d/b/a Union Cellular, WC Docket No. 10-90 *et al.*, at 28-29 (filed Feb. 17, 2012); Reply Comments of United States Cellular Corporation, WC Docket No. 10-90 *et al.*, at 16 (filed Feb. 17, 2012) (urging the Commission to “at a minimum ... redirect its limited funding as much as possible to the Mobility Fund ... [to] correct a glaring imbalance in the Commission’s current budget and ... [to] be responsive to the growing demand from rural consumers for affordable, high-quality mobile broadband service”).

⁴ See, e.g., Industry Analysis and Technology Division, Wireline Competition Bureau, INTERNET ACCESS SERVICES: STATUS AS OF DECEMBER 31, 2010, at 1 (rel. Oct. 2011) (noting that “[g]rowth [in Internet access connections] is particularly high in mobile Internet subscriptions,” where “mobile subscriptions exceeded 84 million by December 2010 – up 63% for the year”) (emphasis added); Letter of Steven K. Berry, President and CEO, RCA, to Julius Genachowski, Chairman, FCC, WC Docket No. 10-90 *et al.*, at 3 (filed Oct. 19, 2011) (citing multiple studies demonstrating “that consumers are cutting the cord and that growth of mobile services is dramatically outpacing the growth of fixed services”).

⁵ See Press Release, FCC, FCC Kicks-Off ‘Connect America Fund’ with Major Announcement: Nearly 400,000 Unserved Americans from Rural Communities in 37 States Will Gain Access to High-Speed Internet Within Three Years (July 25, 2012), *available at* http://thedcoffice.com/late_releases_files/07-25-2012/DOC-315413A1.pdf; Matthew S. Schwartz, *Telcos Accept Less Than Half of Available FCC Connect America Funds*, COMMUNICATIONS DAILY, July 25, 2012, at 3-4. The following six carriers declined all or a portion of CAF Phase I funding allotted to them: AT&T (declined all \$47.9 million); CenturyLink (declined \$54 million of \$89.9 million); FairPoint Communications (declined \$2.8 million of \$4.9 million); Virgin Islands Telephone (declined all \$255,231); Verizon (declined all \$19.7 million); and Windstream (declined \$59.7 million of \$60.4 million).

⁶ See RCA Comments at 3-7.

⁷ *Id.* at 7.

Once it became clear that the price cap ILECs were unwilling to accept a majority of the available Phase I CAF support—notwithstanding the inflated offer of \$775 per location in initial funding and the astounding \$1.8 billion annual budget for providing ongoing CAF Phase II support in the areas served by price cap carriers⁸—CCA again asked the Commission to abandon its policy of setting aside funds exclusively for ILECs.⁹ Because the *CAF Order* arbitrarily limits the funding available to mobile wireless carriers that serve high-cost areas, wireless eligible telecommunications carriers (“ETCs”) will face severe challenges in meeting the needs of these unserved communities.¹⁰ CCA pointed out that the price cap ILECs’ rejection of most Phase I funding accordingly will prevent hundreds of thousands of consumers from obtaining prompt access to broadband services. To mitigate these harms, CCA called on the Commission to reduce the amounts earmarked for ILECs and commensurately increase the support available to wireless ETCs. Specifically, CCA proposed that the Commission make the \$185 million in foregone Phase I support available to wireless ETCs (while noting that \$185 million would only marginally address the funding shortfall created by the *CAF Order*).¹¹

⁸ *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 ¶¶ 144, 159 (2011) (“*CAF Order*” or “*CAF FNPRM*”).

⁹ Ex Parte Letter of RCA — The Competitive Carriers Association, WC Docket No. 10-90 *et al.* (Aug. 3, 2012).

¹⁰ *Id.*

¹¹ *Id.* CCA further argued that the price cap carriers’ refusal of the majority of Phase I support should prompt the Commission to reduce the planned \$1.8 billion annual budget for Phase II support, particularly because the \$1.8 billion budget was based on the assumption that price cap carriers would use all available Phase I funding to extend the reach of their broadband networks. CCA proposed that the price cap carriers that refused funding should not be allowed to receive CAF Phase II support for census blocks in which they declined Phase I support.

CCA was pleased to learn that the Commission intends to issue an NPRM to determine how to reallocate the \$185 million that price cap ILECs declined. But CCA is notably disappointed that the draft NPRM under consideration might exclude CCA's proposals and focus entirely on ways to direct the funds once again exclusively to ILECs. The ILECs' refusal to accept the inflated \$775 per-line in Phase I CAF in many areas hardly warrants giving them another bite at the apple. But even assuming the Commission seeks comments on new funding proposals that could enable the ILECs to participate, it would be remarkably closed-minded to omit from the NPRM CCA's proposal to allow wireless ETCs to take advantage of the \$185 million that the ILECs rejected. It is short-sighted that the Commission chose to embed a preference for wireline technology into its new universal service support mechanisms. It is abundantly clear consumers are choosing mobility and wireless connectivity to broadband. Any FCC decision that does not support consumer preference for wireless is a grave error in policy judgment. Regardless, it would run counter to the Commission's claimed desire for transparency to foreclose discussion of alternative approaches in a further rulemaking. CCA is eager to demonstrate that wireless carriers will be the most efficient and effective stewards of the \$185 million at issue. To develop a complete and inclusive record, the Commission must include CCA's proposal in its forthcoming NPRM.¹²

Respectfully submitted,

/s/

Steven K. Berry, President and CEO
Rebecca Murphy Thompson, General Counsel

Competitive Carriers Association

cc: Commissioner Robert McDowell
Commissioner Mignon Clyburn
Commissioner Ajit Pai
Commissioner Jessica Rosenworcel
Mr. Zachary Katz
Mr. Michael Steffen
Ms. Christine Kurth
Ms. Angela Kronenberg
Ms. Courtney Reinhard
Ms. Priscilla Delgado Argeris
Secretary Marlene Dortch

¹² See *id.*